THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.3312 of 2007

Dated:22.02.2007

Between

Toddy Tappers Cooperative Society, Jadcherla

...Petitioner

And

The Prohibition and Excise Superintendent,
Mahabubnagar and two others.

...
Respondents

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THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.3312 of 2007

ORDER:

This writ petition is filed seeking to issue a writ of Mandamus declaring the order in Rc.No.25/2007/A2, dated 24.01.2007, passed by the first respondent suspending the toddy shop licence of the petitioner-society without conducting any inspection as illegal, arbitrary and contrary to Section 31 (1) (b) of A.P. Excise Act.

The petitioner is a Toddy Tappers Cooperative Society, Jadcherla. In the impugned order, it is stated that

on 20.01.2007, the Prohibition and Excise officials inspected the Toddy Shop of the petitioner-society at Jadcherla and found one person by name D.Bheemaiah selling toddy on behalf of President of TCS Jadcherla namely P.Sudhakar Goud. The toddy was taken from the said shop and was tested with prescribed chemicals on the spot and it was found adulterated with Chloral Hydrate. Hence, three samples have been taken as per the prescribed Rules and one of the samples was sent to the Government Chemical Examiner for Prohibition and Excise Regional, Prohibition and Excise Lab, Hyderabad, for analysis and report. The report of the Chemical Examiner is yet to be received.

Learned counsel appearing for the petitioner disputes the very inspection of the said toddy shop of the petitioner-society by the Prohibition and Excise Officials. It is stated that in fact, no sample of toddy was drawn from any authorised person or from the licensee and that the toody kept for sale was not at all adulterated and therefore, the impugned order suspending the licence of the petitioner-society is contrary to law.

I am not inclined to express any opinion on the merits of the case, as based on the spot test, the licence of the petitioner-society has been suspended pending

further enquiry. The suspension pending enquiry is only incidental and ancillary to the powers vested with the Licencing authority to cancel or suspend the licence.

Having regard to the facts and circumstances of the case, the writ petition is dismissed, directing the respondents to expedite the enquiry, after giving reasonable opportunity to the petitioner, and pass orders in accordance with law. There shall be no order as to costs.

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V.ESWARAIAH, J

22.02.2007
DR